IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Crl.Rev.Pet.No. 4343 of 2007()

CRA.370/2005 of ADDL. SESSIONS FAST TRACK COURT (ADHOC-2), THRISSUR
CC.1064/2001 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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REVN. PETITIONER: APPELLANT/ACCUSED:

RAJESH, S/O.RAMAN, PUTHIYAVEETIL HOUSE,
PANACHCHODE, VALAPAD, THRISSUR.

BY ADV. SRI.K.N.PADMAKUMAR

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY SUB INSPECTOR
OF POLICE, VALAPPAD POLICE STATION, THRISSUR DIST.
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY ADV. SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4343 OF 2007

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Dated this the 12th day of December, 2007.

ORDER

The revision petitioner, who was the 1st accused in C.C. No. 1064/2001 on the file of the Judicial First Class Magistrate, Kodungallur for offences punishable under Sections 143, 147, 148, 447, 341, 324 r/w Section 149 IPC, challenges the conviction entered and the sentence passed against him for offences punishable under Sections 447 and 324 IPC.

2. The case of the prosecution can be summarised as follows:

On 23.09.2001 at about 8.p.m. 6 accused persons formed themselves into an unlawful assembly, the common object of which was to attack PW1 and in prosecution of the common object of the said assembly they committed rioting armed with deadly weapons and A1 voluntarily caused hurt to PW1 by hitting him with an iron rod and others also voluntarily caused hurt to PW1 and the accused have thereby committed offences punishable under Sections 143, 147, 148, 447, 341, 324 r/w Section 149 IPC.

3. On the side of the prosecution 6 witnesses were examined as PWs 1 to 6 and 4 documents were got marked as Exts. P1 to P4.

4. After the close of the prosecution evidence, the accused were questioned under Section 313(1)(b) Cr.P.C. They denied the incriminating circumstances put to them from the evidence adduced by the prosecution. They did not adduce any defence evidence when called upon to do so.

5. The learned Magistrate after trial, as per judgment dated 09.05.2005 acquitted the accused Nos. 2 to 6, but convicted the revision petitioner (1st accused) of the offences punishable under Sections 447, 341 and 324 r/w Section 34 IPC. For the conviction under Section 324 IPC, the revision petitioner was sentenced to simple imprisonment for one year and for the conviction under Section 341 IPC, he was sentenced to pay a fine of Rs.500/- and on default to pay the fine, to suffer simple imprisonment for 5 days. For the conviction under Section 447 IPC also the same punishment which was awarded for the conviction under Section 341 IPC was imposed. For the conviction under Section 324 IPC,

he was sentenced to pay a fine of Rs.4000/- also and on default to pay the fine, to suffer simple imprisonment for six months.

6. Aggrieved by the conviction entered and the sentence passed, the revision petitioner preferred an appeal before the Sessions Court, Thrissur as Crl.A No. 370/2005. As per judgment dated 21.06.2007 the Additional Sessions Court acquitted the accused of the offence punishable under Section 314 IPC, but sustained the conviction and the sentence in respect of Sections 324 and 447 IPC. It is the said judgment which is assailed in this revision.

7. Even though the learned counsel for the revision petitioner assailed the conviction entered and the sentence passed against the revision petitioner on various grounds, in as much as the conviction had been recorded by the courts below after a careful evaluation of the oral and documentary evidence in the case, I am not inclined to interfere with the said conviction sitting in revision. The conviction is accordingly confirmed.

8. What now survives for consideration is the adequacy or otherwise of the sentence imposed on the revision petitioner. On

the facts and circumstances of the case, I do not think that the revision petitioner deserves penal servitude by way of incarceration for the aforesaid offences. I am of the view that the interests of justice will be adequately met by imposing an appropriate fine and payment of compensation to PW1, the injured. Accordingly, the sentence imposed on the revision petitioner under Section 324 IPC is set aside and instead, he is sentenced to undergo imprisonment till the rising of the court and to pay a fine of Rs.5000/- (Rupees five thousand only) under Section 324 IPC. The sentence imposed on the revision petitioner under Section 447 IPC is not interfered with. The fine amount shall be deposited within a period of one month from today. From out of the fine amount, a sum of Rs.3,500/-(Rupees three thousand and five hundred only) shall be paid to PW1 by way of compensation under Section 357(1) Cr.P.C.

The revision is disposed of accordingly.

V. RAMKUMAR, JUDGE.

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